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July 31, 2009

Document Submitted via Fax and Regular Mail

Honorable Karen M. Williams, U.S.M.J.
United States District Court
Mitchell H. Cohen U.S. Courthouse
Camden, NJ 08101

RECEIVED
AUG 3 - 2009
KAREN M. WILLIAMS
U.S. MAGISTRATE JUDGE

RE: *Peter Zilahy Ingerman v. DRPA*
Civil Action No.: 08-5117 (JHR)
Request to File Sur-Reply to Plaintiff's New Fee Request

Dear Judge Williams,

Defendant Delaware River Port Authority ("DRPA") submits this letter seeking leave to respond to Plaintiff's new request for additional fees, which request is set forth in Plaintiff's Reply Declaration Supporting Fee Request filed July 21, 2009. In that declaration, Plaintiff asks this Court for an additional grant of \$3,000 in attorney's fees—a nearly 18% increase over his original fee application. Upon the direction of Your Honor's law clerk, Defendant now submits this letter asking leave of the Court to file a sur-reply to Plaintiff's new request. A sur-reply is necessary because this matter is to be decided without oral argument, and Plaintiff's new fee request was first raised in his reply brief. Without leave to file a reply, Defendant will have no opportunity to challenge the new request.

In its Response to Plaintiff's initial fee application, Defendant argued that the \$500/hr rate proposed by Mr. Gross was significantly higher than the prevailing market rate. Allowing the applying party to recover fees incurred in defending an unreasonable rate would provide a problematic incentive to inflate the proposed hourly rate in the initial fee application, inviting additional fee litigation, which in turn balloons the size of the fee request. Defendant is aware of U.S. Supreme Court precedent warning against this very scenario. Defendant

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JULY 31, 2009
PAGE 2

anticipates that if granted leave, its sur-reply would be very brief—under two pages in letter form.

Respectfully submitted,



CHRISTOPHER R. GIBSON

CRG/bcp

cc: John R. Powers, Esquire
Frederick J. Gross, Esquire (Fax and Regular Mail)

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So Ordered this 4th day
of August, 2009
